IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 764 of 2006(M/B)

1. Jagat Singh S/o Sri Rudra Singh
2. Smt. Ganguly Devi W/o Sri Rudra Singh
   R/o Village Pundeth, Patti Gujuru,
   Tehsil Dhumakot,
   District Pauri Garhwal.
3. Gaya Prasad S/o Sri Magan Lal,
   R/o Village Shankar Pur,
   Tehsil Dhumakot,
   Presently posted as Gram Panchayat Adhikari,
   Rashiya Mahadev, Block Bironkhal,
   District Pauri Garhwal. …… Petitioners.

Versus

1. State of Uttaranchal,
   through Secretary, Home Department,
   Uttaranchal Govt., Dehradun.
2. Station House Office (Patwari),
   Gujuru-3, Tehsil Dhumakot,
   District Pauri Garhwal.
3. Anand Singh Chauhan S/o Jagat Singh,
   R/o Gadaita Kalsi, Dehradun,
   Presently posted as Peon,
   Govt, Intermediate College, Khirari Khal,
   Tehsil Dhumakot,
   District Pauri Garhwal. …… Respondents

Mr. L.K. Tiwari, Advocate for the petitioners.
Mr. D.K. Sharma, Government Advocate for respondents Nos. 1 & 2.
None for respondent No.3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. L.K. Tiwari, Advocate for the petitioners.

Mr. D.K. Sharma, Government Advocate for respondents Nos. 1 & 2.

None for respondent No.3.

They are heard on admission.

2. Petitioners Jagat Singh, Smt. Ganguly Devi and Gaya Prasad have filed this writ petition for the following reliefs:

> "i. Issue a writ order or direction in the nature of Certiorari quashing the F.I.R. as Case Crime No. 3/2006 U/ss 3(1) of the Prevention to Damage the Public Properties Act, 1984. 447 and 506 I.P.C. registered at P.S. Gujuru-3, Tehsil Dhumakot, District Pauri Garhwal, contained in Annexure no. 3 this writ petition.
>
> ii. Issue a writ order or direction in the nature of Mandamus commanding the Respondent not to arrest the petitioners during the pendency of this writ petition in this Hon'ble Court.
>
> iii. Issue any writ, order or direction which this Hon'ble Court may deem just, fit and proper in view of the circumstances of the case.
>
> iv. To award the cost of the petition in favour of the petitioners."

3. The petitioners are apprehending their arrest for their alleged involvement in Crime No. 3 of 2006 registered at Patti Patwari Gujuru-3, District Pauri Garhwal for the alleged commission of the offences punishable under Sections 3(1) of the Prevention of Damage to Public Properties Act, 1984 and 447 & 506 of the I.P.C.

4. According to the First Information Report, the petitioners first damaged the boundary wall of the Government College; encroached over the college land; and were raising unauthorized construction on the said land. The Chaukidar of the College, having failed in preventing the petitioners in their above acts, reported the matter to the Principal respondent No. 3 Anand Singh Chauhan, who in turn, lodged the First Information Report giving rise to the registration of the case against the petitioners.

5. On due consideration of the submission of the learned counsel for the parties; the serious nature of the allegations against the petitioners and the findings recorded by Civil Court in the Civil Suit filed by the petitioners, which was dismissed we are of the

opinion that it is not a fit case warranting quashing of the First Information Report and the registered against the petitioners.

6. The writ petition, therefore, is liable to be dismissed summarily.

7. However, considering that petitioner no. 2 is a woman and petitioner No. 3. is reported to be in Government service, we deem it proper to direct that in the event of the arrest of the petitioners by the police or their surrender before the court concerned, their bail petition shall be taken up for hearing in accordance with law without any undue delay.

8. With the above observation, the writ petition stands disposed of.

9. Consequently, CLMA No. 8006 of 2006 also stands disposed of.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
29.06.2006 29.06.2006

G